

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,
Plaintiff, Counter-defendant,
v.
APPLE INC.,
Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**RESPONSE TO APPLE’S OBJECTIONS
TO SPECIAL MASTER RULINGS ON
APPLE INC.’S PRODUCTIONS OF RE-
VIEWED PRIVILEGED
DOCUMENTS**

The Honorable Thomas S. Hixson
San Francisco Courthouse
Courtroom E - 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Magistrate Judge Hixson,

Pursuant to section 4 of the Joint Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”), Epic respectfully submits the following short response to Apple’s Objections to the Special Masters’ rulings (“Objections”), filed on March 3, 2025. (Dkt. 1294.) Epic does not have access to the underlying documents and is therefore unable to fully assess the bases on which Apple claims privilege; Epic responds to Apple’s Objections on the limited information provided in Apple’s privilege logs for the documents.

- Entry No. 346 (PRIV-APL-EG_00122875)—Apple claims in its Objections that this is a “Quip” document containing an overview of the features and policies Apple introduced to comply with the Digital Markets Act. (Dkt. 1294 at 2.) Apple maintains that the message thread associated with this document contains questions from non-legal personnel to in-house counsel seeking legal advice. *Id.* However, Apple’s privilege log mentions none of that; instead, it claims this is a “draft document” (it apparently is not) and states that the document “indicates Apple Legal weighed in on” it (it apparently does not), without pointing to any attorneys whose advice the document supposedly discloses. This is therefore another case where Apple is making in its Objections a claim that is entirely different from the claim of privilege it submitted to the Special Masters for review. Moreover, nothing in Apple’s Objections suggests that the document—in its entirety—consists only of legal advice or a request for such advice, further undermining Apple’s attempt to completely withhold this document.

- Entry No. 462 (PRIV-APL-EG_00124349)—Apple claims this document is a Slack thread containing one redacted message from John Gould, Apple in-house counsel, in which Gould shares an update to the Developer Program License Agreement. (Dkt. 1294 at 3.) Apple’s privilege log entry is not entirely consistent with that representation, claiming the document “indicates legal weighed in on issues discussed”, and not disclosing Mr. Gould as the attorney providing legal advice. Nonetheless, if Apple’s description of the proposed redaction is accurate and the redaction is appropriately tailored to cover only legal advice provided by Mr. Gould, Epic would not object to such narrow redaction.

DATED: March 5, 2025

CRAVATH, SWAINE & MOORE LLP

By: /s/ Yonatan Even

Counsel for Plaintiff Epic Games, Inc.